

1979 WL 42939 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 18, 1979

*1 Roy McBee Smith, Esquire
Spartanburg County Attorney
Post Office Box 5306
Spartanburg, South Carolina 29304

Dear Mr. Smith:

In response to your request for an opinion from this Office concerning a proposed contract between Spartanburg County and an established volunteer fire department providing that the latter will supply fire protection services within a service area created by that county pursuant to [Sections 4-19-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, my opinion is that the proposal is not contemplated or authorized by the provisions of [Sections 4-19-10 et seq.](#) of the Code.

[Section 4-19-20 of the Code](#) makes clear, at least to me, that the county itself is to provide the fire protection services pursuant thereto. For instance, [Section 4-19-20\(f\)](#) provides that the county governing body is '[t]o employ and supervise the training of firemen;' [Section 4-19-20\(e\)](#) provides that the county governing body is '[t]o employ all necessary fire protection personnel and fix their compensation;' [Section 4-19-20\(i\)](#) provides that the county governing body is '[t]o construct the necessary buildings to house the equipment authorized' [emphasis added]. These powers manifest that the provision of fire protection services pursuant to [Sections 4-19-10 et seq.](#) of the Code is to be made by the county governing body, either directly or through its 'officers, agents, employees and servants.' [§ 4-19-20\(k\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976. Consequently, a contract between the county governing body and an independent contractor most probably does not comply with the authorizing legislation. Moreover, the only express taxing power granted to the county governing body by [Section 4-19-20\(1\) of the Code](#) is granted in order 'to effect the payment of principal and interest of all bonds issued' Therefore, the imposition of a tax that will not be used to retire bonds, as the proposed Spartanburg County ordinance seems to provide, may not be authorized.

An alternative method would be to reconstitute the service area as a tax district of the county pursuant to [Section 4-9-30\(5\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, which method would, as you know, necessitate at least one referendum. Finally, [Sections 4-21-10 et seq.](#) of the Code provide another method for the county to supply fire protection, ambulance and medical clinic facilities services by ordinance and that legislation expressly authorizes contracts with private agencies, inter alia, to provide those services. There is a question, however, as to whether a county is authorized to provide only one of those services or whether all three of them must be provided in view of the conjunctive phrasing used therein. You might also note the language in [Section 4-21-60 of the Code](#) which seems to say that any service authorized by 'the general law' (which, presumably, could include [Sections 4-19-10 et seq.](#)) can be provided in accordance with the provisions of that chapter, 'including specifically those provisions which authorize counties to contract with municipalities or private agencies to perform such services.'

With kind regards,

*2 Karen LeCraft Henderson
Senior Assistant Attorney General

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